IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

RICKY JOE USREY,) CV 12-92-H-DLC-RKS
Plaintiff,)
VS.	ORDER
DENISE DEYOTT, MIKE FERRITER, MONTANA STATE PRISON MAILROOM STAFF,	FILED JAN 2 2 2013
Defendants.	Clerk, U.S. District Court District Of Montana Missoula

United States Magistrate Judge Keith Strong entered Findings and Recommendation on December 10, 2012, and recommended dismissing

Defendants Mike Ferriter and Montana State Prison Mailroom Staff. He also recommended dismissing the due process claims against Defendant Denise Deyott.

None of the parties timely objected to the Findings and Recommendation, and so have waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." <u>United States v. Syrax</u>, 235 F.3d 422, 427 (9th Cir. 2000).

Usrey alleges the Defendants violated his constitutional rights by destroying his mail. Judge Strong found the allegations state a claim for relief as to Defendant Deyott as to the First Amendment claim but not the Fourteenth Amendment claim. However, he found that Usrey fails to state a claim for relief as to Defendant "mailroom staff" and Defendant Mike Ferriter. After a review of Judge Strong's Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Strong's Findings and Recommendation (doc. 7) are adopted in full.

IT IS FURTHER ORDERED that due process claims against Defendant Deyott are DISMISSED. Defendants Ferriter and the mailroom staff are DISMISSED.

DATED this 22 day of January, 2013.

Dana L. Christensen, District Judge

United States District Court